

Revised 03/06 WDNY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ JUN 22 2011 ★

COPY

FORM TO BE USED IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983 BROOKLYN OFFICE
(Prisoner Complaint Form)

All material filed in this Court is now available via the INTERNET. See Pro Se Privacy Notice for further information.

1. CAPTION OF ACTION

6911 -

4270

A. Full Name And Prisoner Number of Plaintiff: NOTE: If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization.

1. Glen Campbell / DW# 07A2550 ROSS, J.

2. _____

-VS-

BLOOM, M.J.

B. Full Name(s) of Defendant(s) NOTE: Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants, you may continue this section on another sheet of paper if you indicate below that you have done so.

1. Glen Haven Correctional Facility / 4.

2. _____

5. _____

3. _____

6. _____

2. STATEMENT OF JURISDICTION

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION NOTE: To list additional plaintiffs, use this format on another sheet of paper.

Name and Prisoner Number of Plaintiff: Glen Campbell #07A2550

✓ Present Place of Confinement & Address: Sing Sing Corr Facility
354 Hunter St Ossining NY 10562

Name and Prisoner Number of Plaintiff: _____

Present Place of Confinement & Address: _____

DEFENDANT'S INFORMATION NOTE: To provide information about more defendants than there is room for here, use this format on another sheet of paper.

Name of Defendant: Gree Whaven Corf Facility

(If applicable) Official Position of Defendant: _____

(If applicable) Defendant is Sued in _____ Individual and/or _____ Official Capacity

Address of Defendant: _____

Name of Defendant: _____

(If applicable) Official Position of Defendant: _____

(If applicable) Defendant is Sued in _____ Individual and/or _____ Official Capacity

Address of Defendant: _____

Name of Defendant: _____

(If applicable) Official Position of Defendant: _____

(If applicable) Defendant is Sued in _____ Individual and/or _____ Official Capacity

Address of Defendant: _____

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?
Yes No

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. Court (if federal court, name the district; if state court, name the county): _____

3. Docket or Index Number: _____

4. Name of Judge to whom case was assigned: _____

5. The approximate date the action was filed: 4/6/2011
6. What was the disposition of the case?
Is it still pending? Yes No _____
If not, give the approximate date it was resolved. _____
- Disposition (check the statements which apply):
- Dismissed (check the box which indicates why it was dismissed):
 By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
 By court for failure to exhaust administrative remedies;
 By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
 By court due to your voluntary withdrawal of claim;
- Judgment upon motion or after trial entered for
 plaintiff
 defendant.

B. Have you begun any other lawsuits in federal court which relate to your imprisonment?

Yes No

If Yes, complete the next section. NOTE: If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. District Court: _____

3. Docket Number: _____

4. Name of District or Magistrate Judge to whom case was assigned: _____

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes No

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

Dismissed (check the box which indicates why it was dismissed):

- By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
- By court for failure to exhaust administrative remedies;
- By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
- By court due to your voluntary withdrawal of claim;

Judgment upon motion or after trial entered for

- plaintiff
- defendant.

5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

- | | | |
|--------------------|------------------------|-------------------------------|
| • Religion | • Access to the Courts | • Search & Seizure |
| • Free Speech | • False Arrest | • Malicious Prosecution |
| • Due Process | • Excessive Force | • Denial of Medical Treatment |
| • Equal Protection | • Failure to Protect | • Right to Counsel |

Please note that it is not enough to just list the ground(s) for your action. You must include a statement of the facts which you believe support each of your claims. In other words, tell the story of what happened to you but do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." *Simmons v. Abruzzo*, 49 F.3d 83, 86 (2d Cir. 1995). Fed.R.Civ.P. 10(b) states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

Exhaustion of Administrative Remedies

Note that according to 42 U.S.C. § 1997e(a), "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a person confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

You must provide information about the extent of your efforts to grieve, appeal, or otherwise exhaust your administrative remedies, and you must attach copies of any decisions or other documents which indicate that you have exhausted your remedies for each claim you assert in this action.

A. **FIRST CLAIM:** On (date of the incident) 4/4/2011

defendant (give the name and position held of each defendant involved in this incident) _____

did the following to me (briefly state what each defendant named above did):

Rawclay Elliot
who is also an inmate of Greenhaven
Correctional Facility attacked Gley Campbell
@ or about 12AM I inmate told
Sergeant Monroe who stated he would
take care of it however he didn't know who
housed c individual additional days before
Campbell to Putman hospital APRIL 6 2011

The constitutional basis for this claim under 42 U.S.C. § 1983 is: The Facility Failed to
~~protect inmate & failed to remove inmate from medical~~
~~danger~~

The relief I am seeking for this claim is (briefly state the relief sought): _____

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? Yes No If yes, what was the result?

Attorney Opened
has open investigation

Did you appeal that decision? Yes No If yes, what was the result?

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so:

A. **SECOND CLAIM:** On (date of the incident) _____

defendant (give the name and position held of each defendant involved in this incident) _____

did the following to me (briefly state what each defendant named above did): _____

The constitutional basis for this claim under 42 U.S.C. § 1983 is: _____

The relief I am seeking for this claim is (briefly state the relief sought): _____

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? _____ Yes _____ No If yes, what was the result? _____

Did you appeal that decision? _____ Yes _____ No If yes, what was the result? _____

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: _____

If you have additional claims, use the above format and set them out on additional sheets of paper.

6. RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.

Do you want a jury trial? Yes _____ No _____

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____
(date)

NOTE: Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.

Signature(s) of Plaintiff(s)

Revised 03/06 WDNY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

HOW TO FILE YOUR CIVIL RIGHTS CASE UNDER 42 U.S.C. § 1983
(Instructions for Prisoner's Complaint)

The Western District's web site at www.nywd.uscourts.gov contains copies of many of the Court's forms and other useful information.

IMPORTANT: This packet includes the civil rights complaint forms and additional materials you have requested. Although you are not required to submit your complaint on the complaint form, you must provide all the information requested on that form. If you choose not to use the official form, be sure that you provide all the information that is requested on the official form and that you enclose the proper number of correctly filled out supporting documents. If your papers are not properly completed, your papers will be returned to you for correction of any deficiencies.

Please be aware that pursuant to the conversion of Federal Courts to electronic filing, all material filed in this Court is available for review via the INTERNET to anyone who has a PACER account. Please take this into consideration in the manner in which you file your case.

Based on the mandates of 28 U.S.C. §§ 1915 and 1915A, the Court will conduct an initial review of any complaint of a prisoner who either is seeking *in forma pauperis* status under § 1915 or who is suing a governmental entity, officer or employee. Because until this review is conducted, it is not certain that all of your claims against all of your defendants will remain when the Court directs service of your complaint, the Court will not send you U.S. Marshal forms and summons forms at this time.

Additionally, based on its review of the complaint, the Court may dismiss the claims in whole or in part and it may also require you to file an amended complaint. Therefore, you should wait until the initial review of the complaint is completed and you know which complaint will be going forward and how many copies of the complaint will be needed before you make more than one set of copies of your papers. (You should keep for your own records one copy of the papers you send to the Court.)

You will be sent the correct number of U.S. Marshal and summons forms when the Court directs service of the complaint. At that time, you should complete the forms and return them to the Court, together with the appropriate number of exact copies of your complaint, so that the U.S. Marshal may serve your summons and complaint on the defendants.

Your new action will be accepted for filing if your papers include the following:

- (1) one completed and signed complaint form,
- (2) one signed Authorization, together with a completed and signed application to proceed *in forma pauperis* (in which the prison certification section has been filled in and signed by the appropriate person in your correctional facility), and
- (3) one completed and signed Civil Cover Sheet.

Follow the instructions below for completing each form and gathering the documents together for filing. Note that these instructions also deal with other issues which will arise in your case.

I. COMPLAINT FORM

1. To start an action, you must file a complaint which contains an original signature. You should also keep an exact copy of the complaint for your records.

After the Court has determined that your case is going forward and against whom it is going forward, you will be required to provide an exact copy of the complaint which is going forward (note that it may be an amended complaint at that point) for each defendant against whom the case is proceeding, and one extra copy. For example, if the case is going forward against two defendants, you must file the original and three copies of the complaint (one original, plus a copy for each of the two defendants plus one extra copy). All copies of the complaint must be identical to the original.

Do not prepare these copies for the defendants until the Court advises you of the form of the complaint which is going forward and the number of copies which will be needed.

2. Your complaint must be legibly handwritten or typewritten, in blue or black ink if possible, preferably on the enclosed forms. If you need additional space to answer a question, you may attach additional pages. However, additional pages should be used only if absolutely necessary; your complaint should be specific but as brief as possible; you should not include legal argument or case citations in your complaint allegations. Just tell your story simply and clearly. Please refer to Rules 8(a)(2) and 10(b) of the Federal Rules of Civil Procedure for the requirements governing the format and content of your complaint. Failure to comply with these requirements may lead to a Court order rejecting your complaint until it does comply.
3. **Section 1: Caption** — This section requires you to list your name and prisoner number as the plaintiff and the names of all of the defendants. Do not use abbreviations such as "etc." or "et al.". Also, note that only those defendants whose names are listed in this Section (or in the caption if you do not use the official forms) will be considered by the Court as defendants.
4. **Section 2: Jurisdiction** — This section states that you have brought this action pursuant to the Civil Rights Statute, 42 U.S.C. § 1983, and that the Court has jurisdiction over your claims under 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201. You may add additional jurisdictional statutes, if appropriate.
5. **Section 3: Parties to This Action** — This section requires you to identify the parties to the lawsuit. (You should set out in Section 1: Caption only the parties' names and perhaps their titles (such as Dr. or Sergeant)). In Section 3: Parties, you must provide the parties' official positions and addresses, and you may provide any other information which may assist in identifying or locating the parties. If you are not using the official forms, your complaint must have a section which identifies and locates the parties in this way.
6. **Section 4: Previous Lawsuits** — This section requires you to provide detailed, accurate and thorough information about all previous lawsuits you have filed. If you cannot provide all of the details requested, you must provide as much information as you can. Deliberate misrepresentation or omission of information is perjury and is punishable by law.
7. **Section 5: Statement of Claim** — This section, which is divided into separate sub-sections for each claim, requires you to tell the Court when each alleged constitutional violation occurred, which defendant(s) did the violation and specifically what each of the defendant(s) did to you. You must provide specific facts

regarding each claim; these facts should demonstrate to the Court how your civil rights were violated and by whom they were violated.

You must give facts only – THIS MEANS JUST TELL THE COURT WHAT HAPPENED TO YOU. Tell your story without legal jargon. Please refer again to Rule 8(a)(2) and 10(b) of the Federal Rules of Civil Procedure regarding how to present your claim. Your complaint must not contain legal arguments or case citations.

Your must also state the constitutional basis for each claim (such as the First Amendment, Eighth Amendment, Due Process Clause or Equal Protection Clause), and describe what relief you are seeking for each claim. In addition, note that you may be required to have exhausted your administrative remedies regarding each claim for which there is an administrative process and remedy. See 42 U.S.C. § 1997e(a). The legal interpretation of this requirement is still evolving.

8. If you wish a jury trial, check "yes" on the complaint form (and check "yes" in the JURY DEMAND box on the Civil Cover Sheet.) If you do not use the official forms, you must state in the body of your complaint that you demand a jury trial.
9. Sign the complaint before a notary public, if one is available to you. If not, your signature at the end of your complaint under penalty of perjury is adequate.
10. **Amended Complaints** — An amended complaint completely replaces your original complaint and must therefore include all of the necessary allegations. You may file one amended complaint as of right at any time before an answer to the original complaint is served. You may also be instructed by the Court to file an amended complaint. If you wish to amend after an answer has been filed, you may do so either by obtaining permission of all other parties to the action or by bringing a motion asking the Court for permission to amend. Refer to Rule 15(a) of the Federal Rules of Civil Procedure for the requirements for amended complaints.
11. **Supplemental Complaints** — You may file a supplemental complaint only if you request permission of the Court by motion with notice to the opposing parties. A supplemental complaint may only address events which have occurred since the time the original complaint was filed and which are in some way related to the original allegations. Refer to Rule 15(d) of the Federal Rules of Civil Procedure for the requirements for supplemental complaints.

II. FILING FEES AND "POOR PERSON'S STATUS"

1. In order to file the completed complaint and other necessary papers, you must submit a \$350.00 money order, certified check or official check made out to "Clerk, United States District Court". Do not send a personal check. (If your complaint is filed in person, you may pay in cash.)
2. If you are unable to pay the fee at the time of filing, you may apply for poor person's status. Because you are a prisoner, this status does not relieve you of the obligation to pay the entire \$350.00 filing fee, see 28 U.S.C. § 1915(b), but it will permit you to initiate your action without simultaneous payment of the filing fee, which will instead be taken out of your inmate account over time pursuant to statute.

3. To request poor person's status, you must fill out the Application to Proceed *In Forma Pauperis* and submit one original to the Clerk of Court along with your complaint. Be sure to get the prison certification section completed by the appropriate prison officials before you file your papers; failure to do so will result in delay in the initiation of your action.

In addition, you must complete the enclosed Authorization Form and submit the original Authorization to the Clerk of the Court along with your Motion to Proceed *In Forma Pauperis* and Supporting Affidavit. The Authorization permits the facility in which you are incarcerated to encumber an initial partial filing fee based upon your financial status for the past six months; the rest of the fee will be encumbered over time until the full fee has been paid. (Please Note: The full fee must be paid whether or not your action is dismissed or goes forward; a dismissal does not cause the encumbrance to be withdrawn.)

III. CIVIL COVER SHEET

Fill out the "Civil Cover Sheet" form according to these instructions:

1. Fill in your name and prisoner number (if applicable) in the "Plaintiff" section;
2. Fill in all of the defendants' names in the "Defendants" section (use a second sheet if necessary);
3. Fill in the name of your county and of the county of one of your defendants in the appropriate "b" sections under Plaintiff and Defendant;
4. In the "Plaintiff's Attorney" section, write "Pro Se" and then add your name, your prisoner number (if applicable), and your address;
5. Leave the "Defendant's Attorney" section blank;
6. In the "Basis of Jurisdiction" section, check "3, Federal Questions";
7. In the "Cause of Action" section, write "42 U.S.C. § 1983, Civil Rights Action";
8. In the "Nature of Suit" section, check box 550: "Prisoner Petitions, Civil Rights";
9. In the "Origin" section, check box 1: "Original Proceeding";
10. Leave the "Citizenship of Principal Parties" section blank;
11. In the "Requested in Complaint" section, write in the amount of money you are suing for and check the appropriate box after "jury demand" (see discussion in Part I(8) above);
12. In the "Related Cases" section, list all your previously-filed cases, together with their docket numbers, the courts in which they were venued, the approximate dates they were filed and their dispositions, using a separate sheet if necessary; and
13. On the last line, date the form and sign your name, followed by "Pro Se" and your prisoner number (if applicable).

IV. FILING YOUR COMPLAINT

Once your papers are complete (meaning that you have a complaint with an original signature, a completed application to proceed *in forma pauperis* and a signed Authorization form, and a completed civil cover sheet), send them to the Clerk's Office at one of the addresses listed below. Upon receipt, your complaint will be assigned a docket number and a judge. Notice of this will be sent to you.

If you are suing a government official (see 28 U.S.C. § 1915A) or if you have applied for permission to proceed *in forma pauperis* (see 28 U.S.C. § 1915), you may not cause copies of your papers to be served on any named defendant, either by yourself or at your request by the United States Marshals Service, until the Court directs service of the complaint (even if you have paid the entire \$350.00 filing fee at the time you filed the complaint).

V. SERVICE OF FORMS

If you apply for permission to proceed *in forma pauperis* and the Court grants your request, the United States Marshal will, at the Court's direction, serve the summons and complaint upon each defendant. When the Court grants your application to proceed *in forma pauperis* and directs service by the U.S. Marshal, you will receive the correct number of Summons and U.S. Marshal Process Receipt and Return forms together with instructions for completing them.

If you do not apply for or receive permission to proceed *in forma pauperis*, you may ask the Court for an order directing service of the complaint by the U.S. Marshals at your expense (the present charge for this is \$8.00 per complaint).

Note that 28 U.S.C. §§ 1915 and 1915A impose certain service limitations on prisoners even if they have paid the filing fee. (These limitations are referenced in Section IV above.)

No matter which method of service you choose, Rule 4(m) of the Federal Rules of Civil Procedure requires that service of the summons and complaint must be made within 120 days after the filing of the complaint. Failure to comply with this deadline may result in dismissal of your action. (In certain cases, where delay in service is related to action taken by the Court – such as directing you to amend your complaint before it directs service by the U.S. Marshal – this time may not start running until service is actually directed.)

If the Marshal fails to complete service upon the first attempt, it is your responsibility to require the Marshal to try to serve again, or to move the Court for an order directing the Marshal to make a second attempt.

VI. GENERAL INFORMATION

1. Your complaint can be filed in this Court only if one or more of the named defendants is located within the Western District of New York, or if the action occurred in the District pursuant to 28 U.S.C. § 1391. Further, it may be necessary for you to file a separate complaint for each claim that you have unless they are all related to the same incident or issue.
2. After issue is joined (which means that the defendant has filed an answer or a motion to dismiss), you must first send a copy of every legal paper to the defendant's attorney before you send the original to the Court to be filed in your case.

This means that each paper you wish to file in the Court must first be served on the defendant's counsel (by mailing it to him). Then attach to the original that you want to file in the Court, as a last page, a signed statement that you have sent a copy of your pleadings to the defendant's attorney. This statement is known as the Affidavit/Affirmation of Service, and is evidence that you have served the papers on your opposition. You may obtain a form for the Affidavit/Affirmation of Service from the Pro Se Staff Attorneys.

Failure to first send a copy to opposing counsel will result in your papers being refused for filing.

Note that the United States Marshal will serve only your complaint (and later, certain subpoenas) if you have been granted poor person status. You are responsible for sending all subsequent papers to the defendants or their attorney(s) yourself. The District Court will not make copies for you nor will it send copies to the opposing party for you. If you are unable to make photocopies or carbon copies, you may submit identical handwritten copies.

3. Requests for assigned counsel may be made pursuant to 28 U.S.C. § 1915(e)(1). The Court will make every effort to appoint counsel in civil rights cases filed by inmates, but generally only after the plaintiff's allegations have demonstrated some degree of merit to the Court, some need for such representation, and that you have already made some unsuccessful effort to locate an attorney to represent you. Denial of requests for appointment of counsel before such time shall be without prejudice to renewal after the case has progressed closer to trial. You may obtain a form for requesting counsel from the Pro Se Staff Attorneys.
4. You must notify the Clerk's Office and all defendants (or their attorneys) immediately of any address changes. Failure to do so may result in dismissal of your action pursuant to Local Rule of Civil Procedure 5.3(d).
5. The Clerk of Court will not file your complaint unless it conforms to these instructions pursuant to Local Rules of Civil Procedure 5.2 and 5.3.
6. If there is more than one plaintiff, each and every plaintiff must sign the complaint individually and must apply separately for permission to proceed *in forma pauperis*, if applicable. After the complaint has been filed, one plaintiff may submit a document to be filed on behalf of all the plaintiffs only if the other plaintiffs have signed a statement giving that plaintiff the authority to submit documents on all plaintiffs' behalf. Otherwise, each plaintiff must sign every document submitted to the Court.

VII. MAILING INSTRUCTIONS

Finally, mail or bring all of the papers to one of the following addresses:

United States District Court Clerk
2120 U.S. Courthouse
100 State Street
Rochester, New York 14614-1387
(585) 263-6263

United States District Court Clerk
304 U.S. Courthouse
68 Court Street
Buffalo, New York 14202-3498
(716) 551-4211 or (716) 551-5759

If you have general questions about procedures, you may contact the Pro Se Staff Attorneys at one of the above addresses for information. Note: The Pro Se Staff Attorneys can only provide technical and procedural information and some forms such as for filing motions and the affirmation/affidavit of service; they cannot assist you with the substantive law governing your lawsuit or give you legal advice.

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

(Name of Plaintiff or Petitioner)

V.

**MOTION TO PROCEED *IN FORMA PAUPERIS*
AND SUPPORTING AFFIRMATION**

-CV-

(Name of Defendant(s) or Respondent(s))

I, _____, (print or type your name) am the plaintiff/petitioner in the above-entitled case and hereby request the Court's permission to proceed *in forma pauperis*.

In support of my motion to proceed without being required to prepay fees, costs, or give security therefor, I state that because of my poverty, I am unable to pay the costs of this action or to give security therefor and that I believe I am entitled to redress.

I further declare that the responses which I have made in this affirmation below are true.

1. Are you presently employed? Yes _____ No _____

My Employer's Name and Address is: _____

My Gross Monthly Wages are: \$_____

If you are not presently employed, state

Your Last Date of Employment: _____

Your Gross Monthly Wages at that time: _____

Is your spouse presently employed? Yes _____ No _____

My Spouse's Employer's Name and Address is: _____

My Spouse's Gross Monthly Wages are \$_____

2. Have you received any money from any of the following sources within the past twelve months:

a. Business, profession or self-employment? Yes _____ No _____

If yes, state source and amount received per month \$_____

b. Rent payments, interest or dividends? Yes _____ No _____

If yes, state source and amount received per month \$_____

c. Pensions, annuities, disability, or life insurance payments? Yes _____ No _____

If yes, state source and amount received per month \$_____

d. Gifts or inheritances? Yes _____ No _____

If yes, state source and amount received per month \$_____

e. Child Support? Yes _____ No _____

If yes, state amount received each month \$_____

f. Government Benefits (Social Security, SSI, Welfare, AFDC, Veterans, etc.)? Yes _____ No _____

If yes, state source and amount received per month \$_____

g. Friends, Relatives or any other source? Yes _____ No _____

If yes, state source and amount received per month \$_____

If you have not received any money from any of the above sources, please explain how you are currently paying your expenses:

3. What is your total gross monthly income today: \$_____

4. How much cash do you have on hand? \$_____

5. How much money do you have in a checking account(s)? \$ _____
6. How much money do you have in a savings account(s)? \$ _____
7. If you are an inmate of a correctional facility, state the amount of funds in your inmate account (NOTE: prisoners must have inmate account balances certified by an authorized official of the correctional facility and must include a signed Authorization for payment of the filing fee): _____
8. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? Yes _____ No _____. If so, describe the property in detail and give an estimated value of the property: _____
If you own property, are you paying off a loan or mortgage on it? Yes _____ No _____.
If yes where are you obtaining the money to make such payments: _____
9. If you are not an inmate, state your total monthly household expenses:
Rent or mortgage \$ _____ Food \$ _____ Utilities \$ _____ All other expenses \$ _____.
If your monthly expenses exceed the amount of income you listed in # 3 above, please explain how you are paying your expenses

10. List all of the people who are in your household and state the amount of money each one contributes to household expenses each month:

11. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support:

12. Have you been adjudicated bankrupt within the past ten (10) years? Yes _____ No _____.
If the answer is yes, please include the court and date of filing _____

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____ (Date) _____ (Applicant's Signature)

PRISON CERTIFICATION SECTION

(Required for Prisoner Requests Only; Prisoner Requests Must Have This Section Completed By Prison Official)

I certify that the movant has the sum of \$ _____ on account to his/her credit at the _____ Correctional Facility where s/he is currently confined.

I further certify that the movant has the following securities to his/her credit according to the institution's records: _____

I further certify that the movant's average account balance was \$ _____ during the last six months.

Signature of Authorized Officer of Institution

Print Name of Authorized Officer of Institution

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

Revised 03/06 WDNY

IMPORTANT FEE INFORMATION

If you do not have sufficient funds to pay the full filing fee of \$350.00, you may request permission to proceed *in forma pauperis* under 28 U.S.C. § 1915. Because you are incarcerated, the statute requires you to pay the filing fee, but it permits you to pay it in installments over time. You may file your case without paying for the filing fee at the time of filing by sending to the Court with your complaint a fully-completed and signed Request to Proceed *In Forma Pauperis* and a signed Authorization form by which you authorize your Correctional Facility to remove the statutory amounts from your inmate account over time. When your case is opened, the Court will send a copy of your Authorization to your Correctional Facility, which will then begin collecting the fee by removing from your inmate account an initial partial filing fee of 20 percent of the greater of:

- 1) the average monthly deposits to your prison account for the past six months; or
- 2) the average monthly balance in your prison account for the prior six month period.

Thereafter, your Correctional Facility will take payments from your account pursuant to statute until the entire filing fee is paid. See 28 U.S.C. § 1915(b) for the calculations applicable to this fee deduction from your account.

**CAUTION: YOUR OBLIGATION TO PAY THE
FILING FEE CONTINUES UNTIL YOUR FILING
FEE IS PAID, EVEN IF YOUR COMPLAINT HAS
ALREADY BEEN DISMISSED BY THE COURT.**

To obtain *in forma pauperis* status, you must:

- 1) Fill out a Motion to Proceed *In Forma Pauperis* form. You must respond to all of the questions, and have the appropriate prison official fill out and sign the Prison Certification Section..
- 2) Fill out and sign the attached Authorization form by which you authorize the institution in which you are incarcerated to provide the court with a certified copy of your trust fund account statement for the six month period immediately preceding the filing of the complaint, and to calculate and pay the filing fee as directed by the statute.
- 3) Return both the completed Motion to Proceed *In Forma Pauperis* and completed Authorization form to the Clerk of the Court, United States District Court for the Western District of New York.

28 U.S.C. § 1915(g) Strike Information

If you have three or more prior cases or appeals dismissed as frivolous, malicious or for failure to state a claim upon which relief may be granted (such dismissals are called "strikes"), you must pay the filing fee in full before another complaint or appeal will be accepted for filing, unless you are in imminent danger of serious physical injury. See 28 U.S.C. § 1915(g).

Revised 05/01 WDNY

AUTHORIZATION

PRISONER'S CIVIL ACTION FILING FEE WESTERN DISTRICT OF NEW YORK

I, (print name) _____, request and authorize the agency holding me in custody, to send to the Clerk of the United States District Court, Western District of New York, a certified copy of the statement for the past six months of my trust fund account (or institutional equivalent) at the institution where I am incarcerated.

I further request and authorize the agency holding me in custody to calculate and disburse funds from my trust account (or institutional equivalent) in the amounts specified by 28 U.S.C. § 1915 (b), to deduct those amounts from my prison trust account (or institutional equivalent), and to disburse those amounts from my account to the United States District Court for the Western District of New York.

This Authorization shall apply to any other agency into whose custody I may be transferred, and to any other district court to which my case may be transferred and by which my poor person application may be decided.

This Authorization is furnished in connection with the commencement of a federal court civil action, and I understand that I must pay the total amount of the filing fee, which is \$350.00.

I understand that by signing this authorization, the entire filing fee of \$350.00 will be paid to the court in installments by automatic deductions from my prison trust fund account even if my case is dismissed before the entire amount of the fee has been deducted from my account.

Dated: _____, 20_____

Signature of prisoner

Printed name of prisoner

Inmate number of prisoner

UNITED STATES DISTRICT COURT

District of

NEW YORK

SUMMONS IN A CIVIL ACTION

v.

CASE NUMBER:

TO: (Name and address of Defendant)

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

an answer to the complaint which is served on you with this summons, within _____ days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

CLERK

DATE

(By) DEPUTY CLERK

RETURN OF SERVICE

| | |
|--|-------|
| Service of the Summons and complaint was made by me ⁽¹⁾ | DATE |
| NAME OF SERVER (PRINT) | TITLE |

Check one box below to indicate appropriate method of service

- Served personally upon the defendant. Place where served:
- Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
Name of person with whom the summons and complaint were left:
- Returned unexecuted:
- Other (specify):

STATEMENT OF SERVICE FEES

| TRAVEL | SERVICES | TOTAL |
|--------|----------|--------|
| | | \$0.00 |

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____

Date

*Signature of Server**Address of Server*

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below, federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. Do not cite jurisdictional statutes unless diversity. Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of process, summonses, complaints, answers and other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is revised for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

| | | |
|--|--|--|
| L (a) PLAINTIFFS | | DEFENDANTS |
| (b) County of Residence of First Listed Plaintiff <small>(EXCEPT IN U.S. PLAINTIFF CASES)</small> | | County of Residence of First Listed Defendant <small>(IN U.S. PLAINTIFF CASES ONLY)</small> |
| | | NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED. |
| (c) Attorney's (Firm Name, Address, and Telephone Number) | | Attorneys (If Known) |

| | | | | | | | | | |
|--|---|---|----------------------------|----------------------------|---|----------------------------|----------------------------|--|--|
| II. BASIS OF JURISDICTION <small>(Place an "X" in One Box Only)</small> | | III. CITIZENSHIP OF PRINCIPAL PARTIES <small>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</small> | | | | | | | |
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question <small>(U.S. Government Not a Party)</small> | Citizen of This State | PTF | DEF | Incorporated or Principal Place of Business In This State | PTF | DEF | | |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input checked="" type="checkbox"/> 4 Diversity <small>(Indicate Citizenship of Parties in Item III)</small> | Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 | | |
| | | Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 | | |

| | | | | | | | |
|---|--|--|---|--|---|---|--|
| IV. NATURE OF SUIT <small>(Place an "X" in One Box Only)</small> | | | | | | | |
| CONTRACT | | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES | | |
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defauluted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | | <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury | <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability | <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 | <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 510 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes | |
| REAL PROPERTY | | CIVIL RIGHTS | PRISONER PETITIONS | LABOR | SOCIAL SECURITY | FEDERAL TAX SUITS | |
| <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | | <input type="checkbox"/> 411 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights | <input type="checkbox"/> 510 Motions to Vacate Sentence <small>Habeas Corpus:</small> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition | <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act | <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) | <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Emp'l. Ret. Inc. Security Act | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 |

| | | | | | | | |
|--|---|--|---|--|---|----------------------------|---|
| V. ORIGIN <small>(Place an "X" in One Box Only)</small> | | | | | | | |
| <input type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from another district (specify) | <input type="checkbox"/> 6 Multidistrict Litigation | <input type="checkbox"/> 7 | Appeal to District Judge from Magistrate Judgment |

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

| | | | | | | |
|-------------------------------------|--|--|-----------|---|--|--|
| VII. REQUESTED IN COMPLAINT: | | <input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 | DEMAND \$ | CHECK YES only if demanded in complaint: JURY DEMAND: <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
|-------------------------------------|--|--|-----------|---|--|--|

| | | | | | | |
|-------------------------------------|--|---------------------------|---------------|--|--|--|
| VIII. RELATED CASE(S) IF ANY | | (See instructions): JUDGE | DOCKET NUMBER | | | |
|-------------------------------------|--|---------------------------|---------------|--|--|--|

| | | | | | | | |
|------|---------------------------------|--|--|--|--|--|--|
| DATE | SIGNATURE OF ATTORNEY OF RECORD | | | | | | |
|------|---------------------------------|--|--|--|--|--|--|

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFF JUDGE MAG. JUDGE

Revised 10/01 WDNY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Plaintiff,

-v-

-CV-

Defendant

Application For Order Directing Service by U.S. Marshal

I _____, plaintiff in the above entitled action, hereby request an order of the court directing the U.S. Marshal for the Western District of New York, pursuant to Fed.R.Civ.P. 4(c)(2), to serve the summons and complaint in this action.

Signature of Plaintiff

Date: _____

District Court Addresses and Counties Covered

1. U.S. District Court for the Southern District of New York addresses:

U.S. Courthouse
500 Pearl Street
New York, New York 10007-1312

U.S. Courthouse
300 Quarropas Street
White Plains, New York 10601

Covers the following counties: Bronx, Dutchess, New York, Orange, Putnam, Rockland, Sullivan, and Westchester

2. U.S. District Court for the Eastern District of New York addresses:

U.S. Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Covers the following counties: Kings, Nassau, Queens, Richmond, and Suffolk

3. U.S. District for the Western District of New York addresses:

U.S. Courthouse
68 Court Street
Buffalo, New York 14202-3406

U.S. Courthouse
100 State Street
Rochester, New York 14614-1387

Covers the following counties: Allegany, Cattaraugus, Chautauqua, Chemung, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Schuyler, Seneca, Steuben, Wayne, Wyoming, and Yates

4. U.S. District for the Northern District of New York
addresses:

James T. Foley U.S. Courthouse
445 Broadway
Albany, New York 12207-2974

James F. Hanley Federal Building
100 S. Clinton Street
P.O. Box 7367
Syracuse, New York 13261-7367

Alexander Pirnie Federal Building
10 Broad Street
Utica, New York 13501

Federal Building & U.S. Courthouse
15 Henry Street
Binghamton, New York 13901

Covers the following counties: Albany, Broome, Cayuga, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Herkimer, Jefferson, Lewis, Madison, Montgomery, Oneida, Onondaga, Oswego, Otsego, Rensselaer, St. Lawrence, Saratoga, Schenectady, Schoharie, Tioga, Tompkins, Ulster, Warren, and Washington

NOTICE TO PRISONERS REGARDING REQUESTS FOR FORMS

This insert modifies the instructions for filing a civil rights case in federal court.

You have requested forms for filing a civil complaint in this Court. Based on the mandates of 28 U.S.C. §§ 1915 and 1915A, the Court will conduct an initial review of any complaint of a prisoner who either is seeking *in forma pauperis* status under § 1915 or who is suing a governmental entity, officer or employee. Because until this review is conducted, it is not certain that all of your claims against all of your defendants will remain when the Court directs service of your complaint, the Court will not send you U.S. Marshal forms and summons forms at this time. (Additionally, since at times an initial complaint may be dismissed *sua sponte* in its entirety but the Court may also grant the plaintiff leave to file an amended complaint, it makes sense for you to wait until the initial review of the complaint is completed and you know whether and on whom service is directed before you make numerous copies of your complaint.)

You will be sent the correct number of U.S. Marshal and summons forms when the Court directs service of the complaint. At that time, you should complete the forms and return them to the Court, together with the appropriate number of exact copies of your complaint, so that the U.S. Marshal may serve your summons and complaint on the defendants.

Your new action will be accepted for filing if your papers include the following:

- (1) one completed and signed complaint form,
- (2) one signed Authorization, together with a completed and signed application to proceed *in forma pauperis* (in which the prison certification section has been filled in and signed by the appropriate person in your correctional facility), and
- (3) one completed and signed Civil Cover Sheet.

All of these documents must be legible. Keep an exact copy of the complaint for yourself, so that you may use it (after the order directing service has issued) as the basis for making the correct number of copies to provide to the Court with the completed summons and U.S. Marshal forms. If you have any questions about this, please call or write the Pro Se Staff Attorneys:

United States District Court Clerk
304 U.S. Courthouse
68 Court Street
Buffalo, New York 14202-3498
(716) 551-5759

United States District Court Clerk
2120 U.S. Courthouse
100 State Street
Rochester, New York 14614-1387
(585) 263-6263

Note: The Pro Se Staff Attorneys can only provide technical and procedural information and some forms such as for filing motions and affirming service; they cannot assist you with the substantive law governing your lawsuit or give you legal advice.

HELPFUL INFORMATION FOR PRO SE LITIGANTS

Check the Western District's Web Site for Forms and Other Information
at www.nywd.uscourts.gov

The Court will only accept for filing documents with original signatures. (The document may be a copy but your signature must be an original.)

For your own records, you must keep copies of all documents you file; the Court is not a copying service and cannot provide you with copies.

After the complaint is answered, you must serve copies of all documents you send to the Court on your opposing party or, if it is represented by counsel, on its counsel.

You must always include an affidavit/affirmation of service indicating that you have served all other parties/counsel with any document you wish to file with the Court after the complaint has been answered; the Court cannot file any document which is not accompanied by your Affidavit/Affirmation of Service. (The Clerk's Office and the Court's web site has forms which demonstrates the format you should use for this purpose.)

The Court must have an up-to-date address for you, and it is your responsibility to immediately apprise the Court of any address changes. Failure to do so may result in the dismissal of your action.

It is your responsibility to prosecute your own action, and you should not count on the Court to appoint counsel to represent you. Failure to do so may result in the dismissal of your action.

It is your responsibility to be aware of the Federal Rules of Civil Procedure and the Local Rules of Civil Procedure. The Federal Rules of Civil Procedure are available in any law library and on the Internet. You may obtain a copy of the Western District's Local Rules from the Clerk's Office or from the Court's web site. (Note especially the rules regarding discovery matters, the requirements for the parties when there are motions for summary judgment, and Rule 11.)

The Clerk's Office and the Court's web site also has a form to assist you in preparing a motion. (Although this form is not designed for responding to a motion, the information about how to prepare an affidavit is useful for that purpose also.)

NOTE: In some types of actions, you are entitled to a trial by jury. However, you lose your rights to a jury trial if you do not ask for it early enough. Therefore, if you want a jury trial, you should write "JURY TRIAL DEMANDED" on the front page of your complaint to the right of the caption, above or below the word "complaint." You can also demand a jury trial within 10 days of service of the defendant's answer. See, Rule 38(b) of the Federal Rules of Civil Procedure.

From: TODDUSCHEN CAMPBELL
225 Cache Creek
Blockley, VA 24427

FIRST CLASS



1000

11:201



U.S.
SCENE
JUN
2011

04

To: U.S. Courthouse
225 Cache Creek
Blockley, VA 24427

11201

Ready Post®

Photo Document Mailer